

Amendment No. 1 to HB1785

Farmer
Signature of Sponsor

AMEND Senate Bill No. 1790

House Bill No. 1785*

by deleting Section 3 and substituting instead the following:

SECTION 3. Tennessee Code Annotated, Section 36-3-106, is amended by deleting the section in its entirety and substituting instead the following:

(a) Notwithstanding § 36-3-105, a minor who is seventeen (17) years of age may petition the juvenile, circuit, or chancery court in the county in which the minor resides for an order granting permission to marry. The petition shall contain the following:

(1) The petitioner's name, sex, age, date of birth, address, and how long the petitioner has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;

(2) The intended spouse's name, sex, age, date of birth, address, and how long the intended spouse has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;

(3) An affidavit attesting to the consent to marry signed by:

(A) Both parents of the petitioner, if the parents are married, the parents are not legally separated, no legal guardian has been appointed for petitioner, and no court order has been issued granting custody of petitioner to a party other than the father or mother;

(B) Both parents, if both are living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the petitioner has been issued and is in effect;

(C) The surviving parent if one (1) parent is deceased;

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(D) The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the petitioner has not been ordered; or

(E) Another person having lawful custodial charge of the petitioner;

(4) A statement of the reasons why the petitioner desires to marry, how the parties came to know each other, and how long they have known each other;

(5) Evidence of the petitioner's maturity and capacity for self-sufficiency independent of the petitioner's parents and the intended spouse, including, but not limited to:

(A) Proof that the petitioner has maintained stable housing or employment for at least three (3) consecutive months prior to the petition; and

(B) Proof that the petitioner has completed high school, obtained a high school equivalency credential, or completed a vocational training or certificate program;

(6) Copies of any criminal records of either party to be married; and

(7) Copies of any domestic violence order or protective order involving either party to be married.

(b) Upon the filing of the petition for permission to marry, the court shall set a date for an evidentiary hearing on the petition that is no sooner than thirty (30) days but no later than sixty (60) days from the date of the filing.

(c) The petitioner may be represented by counsel in a court proceeding pertaining to the petition to marry.

(d) The court shall take reasonable measures to ensure that any representations made by a minor party are free of coercion, undue influence, or duress. Reasonable measures shall include, but are not limited to, in camera interviews.

(e) Following an evidentiary hearing, the court shall grant the minor's petition for permission to marry if the age difference between the parties is less than four (4) years unless:

(1) The intended spouse was or is a person in a position of authority or special trust who by reason of that position is able to exercise undue influence over the minor;

(2) The intended spouse has previously been enjoined by a domestic violence order or protective order, regardless of whether the person to be protected by the order was the minor petitioner;

(3) The intended spouse has been convicted of a:

(A) Criminal offense against a victim who is a minor under § 39-13-111, § 39-15-401, § 39-15-402, or title 39, chapter 13, part 3 or 5;

(B) Violent felony offense, as defined in § 40-35-321(e); or

(C) Sexual offense or violent sexual offense, as defined in § 40-39-202;

(4) The court finds by a preponderance of the evidence that the minor was a victim and that the intended spouse was the perpetrator of a sexual offense against the minor under title 39, chapter 13, part 5 or title 39, chapter 17, part 10;

(5) The court finds by a preponderance of the evidence that abuse, coercion, undue influence, or duress is present; or

(6) The court finds that it would otherwise not be in the minor party's best interest to grant the petition to marry.

(f) A past or current pregnancy of the minor or the intended spouse shall not be sufficient evidence to establish that the best interests of the minor would be served by granting the petition for marriage.

(g) The granting of a petition for permission to marry filed under subsection (a) shall remove the disabilities of minority. A minor emancipated by the petition shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements, including voting, the use of alcoholic beverages, and other health and safety regulations relevant to the minor because of the minor's age.

(h) The minor shall be advised by the court of the rights and responsibilities of parties to a marriage and of emancipated minors. The minor shall be provided with a fact sheet on these rights and responsibilities to be developed by the administrative office of the courts. The fact sheet shall include referral information for legal aid agencies in this state and national hotlines for domestic violence and sexual assault.

(i) The court may make any other orders that the court deems appropriate for the minor's protection and may impose any other condition on the grant of the petition that the court determines is reasonable under the circumstances for the minor's protection.

(j) The court may set a fee not to exceed twenty dollars (\$20.00) to file a petition for permission to marry under this section.

AND FURTHER AMEND by deleting Section 1 and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-3-104(b), is amended by deleting the subsection and substituting instead the following:

If either of the parties is seventeen (17) years of age, a marriage license shall not be issued unless:

(1) The party who is seventeen (17) years of age presents to the clerk a certified copy of a court order that grants the party permission to marry and removes the party's disability of minority, as provided in § 36-3-106; and

(2) At least fifteen (15) days have elapsed since the court order was granted.

AND FURTHER AMEND by deleting the effective date section and substituting instead the following:

SECTION 6. Tennessee Code Annotated, Section 36-3-104(a)(1), is amended by adding the language "and supported by appropriate documentation" immediately after the language "The application shall be sworn to by both applicants".

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.